UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

ALLIED WASTE OF SANTA CLARA COUNTY

and

Case 32-CA-085550

TEAMSTERS LOCAL 350

ORDER

The petitions to revoke the Acting General Counsel's investigative subpoena ad testificandum A-894492 and subpoena duces tecum B-567909 filed by Allied Waste of Santa Clara County are denied.¹

The petitions to revoke were untimely filed under Section 11(1) of the Act and Sections 102.31 and 102.111 of the Board's Rules and Regulations, which require such petitions to be filed within five days after the date of service of the subpoena. A certified mail receipt signed by a representative of the Employer establishes that the subpoena was received by the Employer on September 11, 2012. The due date for receipt of the petition to revoke was September 18, 2012, but it was not filed until September 26, 2012. The Employer neither filed a request for an extension of time nor proffered any explanation for the delayed filing.² No party has argued that any policy considerations warrant disregard of the Board's five-day rule.

In addition, even assuming that the petitions were timely filed, they are lacking in merit. The subpoenas seek information relevant to the matter under investigation and

¹ The Petitioner's request that its petitions to revoke be made part of the official record in this case is denied as premature, without prejudice to the Petitioner renewing this request if these investigative proceedings progress to the stage where an official record is created.

² The Employer asserted, without any supporting evidence, that the subpoenas were served on September 19, 2012.

describe with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Petitioner has failed to establish any other legal basis for revoking the subpoenas. See generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996). Accordingly, the petitions are denied.

Dated, Washington, D.C. December 3, 2012

MARK GASTON PEARCE, CHAIRMAN

RICHARD F. GRIFFIN, JR., MEMBER

SHARON BLOCK, MEMBER